

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

UNITED STATES OF AMERICA,)	CASE NO: 1:17-CR-00153-TH
)	
Plaintiff,)	CRIMINAL
)	
vs.)	Beaumont, Texas
)	
ARTURO ELIZONDO,)	Monday, February 26, 2018
RICARDO AVILES,)	
CYNTHIA LOPEZ,)	(2:56 p.m. to 3:59 p.m.)
SIDNEY ANTHONY WORRELL,)	(4:03 p.m. to 4:17 p.m.)
)	(4:40 p.m. to 4:51 p.m.)
Defendants.)	

DETENTION HEARING

BEFORE THE HONORABLE KEITH F. GIBLIN,
UNITED STATES MAGISTRATE JUDGE

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Beaumont, Texas; Monday, February 26, 2018; 2:56 p.m.

(Call to Order)

THE COURT: Okay, we're back on the record in the case of *United States of America versus Arturo Elizondo, Ricardo Aviles, Cynthia Lopez, and Sidney Worrell*.

We're here today -- we've conducted the arraignments. We're here today for the detention hearing in each of these cases.

The Court, as it does in every case, will admit the indictment into the record as Court's Exhibit Number 1. And also the Pretrial Services Reports, with the exception of the recommendation by the probation officer, into the record as, for Mr. Elizondo, it will be Court's Exhibit Number 2; for Mr. Aviles, it will be Court's Exhibit Number 3; for Ms. Lopez, it will be Court's Exhibit Number 4; and for Mr. Worrell, it will be Court's Exhibit Number 5. But I will not admit the recommendation of the probation officer because that is the Court's decision.

I'll also admit them under seal because they contain personal information regarding each of Mr. Elizondo, Mr. Aviles, Ms. Lopez, and Mr. Worrell.

(Court's Exhibits Numbers 1 through 5 were received in evidence)

Okay, is the Government ready to proceed?

MR. RAPP: Yes, your Honor.

1 **THE COURT:** Please call your first witness.

2 **MR. RAPP:** The Government calls Task Force Officer
3 James Emmerson.

4 **JAMES EMMERSON, GOVERNMENT'S WITNESS, SWORN**

5 **THE COURT:** Thank you. Please have a seat.
6 You can proceed.

7 **MR. RAPP:** Thank you, your Honor.

8 **DIRECT EXAMINATION**

9 **BY MR. RAPP:**

10 Q Good afternoon, TFO Emmerson. Can you explain your
11 background to the Court?

12 A My name is James Emmerson, with two M's; E-M-M-E-R-S-O-N.
13 I'm a Galveston police officer; been a police officer for 15
14 years, and I've been assigned to the DEA Galveston Resident
15 Office for eight years.

16 Q And how did you first become involved in this particular
17 case; how did it start?

18 A In December 2013, I debriefed a cooperating -- or a
19 confidential informant. The informant told me about the drug
20 trafficking activities of Alvaro Romero.

21 Q Okay, so once you learned -- once Alvaro Romero was on
22 your radar, what happened from there?

23 A We opened the investigation; we did the traditional
24 investigative techniques such as surveillance, phone tolls, we
25 had some recorded calls, and we did, I believe, two controlled

1 purchases of marijuana from Alvaro Romero.

2 Q And after those two controlled purchases, did you use an
3 investigative technique known as a "wiretap"?

4 A Yes, sir. I obtained a wiretap, I believe, in February of
5 2014, on Alvaro Romero.

6 Q Okay, and from Alvaro Romero, did that take --

7 **THE COURT:** What was that -- what was date again?

8 **THE WITNESS:** I believe in February of 2014.

9 **THE COURT:** 2014?

10 **BY MR. RAPP:**

11 Q Okay, and at that point, did the wire interception of
12 Mr. Romero's phone lead you to other individuals?

13 A Yes, sir, several.

14 Q Okay, and let's go through the ones we have seated before
15 us; let's talk about Mr. Elizondo. What, if anything -- what
16 evidence did we gain from that to get us to Mr. Elizondo?

17 A Throughout the wiretap -- in fact, there was multiple
18 wiretaps on Alvaro Romero's phone. We intercepted several
19 calls with Arturo Elizondo. Elizondo was identified as a
20 cocaine source of supply for Mr. Romero.

21 Q Okay, and what sort of amounts are we talking about
22 through the course of the wiretap?

23 A Anywhere ranging from 9 ounces, half kilograms of cocaine,
24 to 1 full kilogram of cocaine.

25 Q Okay, and just as a ballpark figure for Mr. Elizondo,

1 what -- do we have like a -- a ballpark figure of total amount
2 of cocaine that he was involved with through the course of the
3 wiretaps?

4 A Yes, sir. Between the wiretaps not only on Alvaro
5 Romero's phone, but the wiretaps we obtained on Arturo
6 Elizondo's phone, it was a ballpark figure of approximately
7 19 kilograms of cocaine.

8 Q All right. And were there other narcotics involved
9 besides cocaine or powder cocaine on the wire receptions?

10 A Yes, sir; marijuana.

11 Q And what's there -- or kind of ballpark amounts that was
12 discussed or seized through the course of wire interception?

13 A Approximately over several hundred pounds of marijuana.

14 Q Okay, were there any direct purchases or seizures
15 involving Mr. Elizondo?

16 A No, sir.

17 Q Okay, let's move on to Mr. Aviles. Was he also involved
18 as being connected to Mr. Alvaro Romero?

19 A Yes, sir, to the investigation; not directly to Alvaro
20 Romero.

21 Q And just talk -- talk to us about how he became part of
22 your investigation?

23 A Yes, sir. We obtained the wiretap, obviously, in the very
24 beginning of the investigation, on Alvaro Romero; then led us
25 to spin up on a wiretap on Arturo Elizondo; and from him, we

1 spun up to his cocaine source of supply, which was Jose Rubio,
2 also known as "Scrappy".

3 We obtained a wiretap on Jose Rubio's phone and
4 intercepted Mr. Aviles; and we spun up on a wiretap on
5 Mr. Aviles' phone.

6 Q Okay, and what, if anything, did you learn from that
7 wiretap about Mr. Aviles' involvement in the conspiracy?

8 A He was a much larger cocaine distributor. I believe a
9 ballpark figure from all the wiretaps combined, it was about 79
10 kilograms of cocaine.

11 Q Were there any other narcotics involved with Mr. Aviles?

12 A Not that I can recall.

13 Q Were there any seizures or hand-to-hand purchases, like
14 powder on the table for Mr. Aviles?

15 A Yes, sir, 10 kilograms of cocaine.

16 Q And tell us about this incident.

17 A There's an incident where Jose Rubio was attempting to
18 obtain 10 kilograms of cocaine for the other co-defendant,
19 Sidney Worrell.

20 During the 10-kilogram transaction, Mr. Rubio had
21 contacted his source of supply, Mr. Aviles, and attempted to
22 obtain 10 kilograms of cocaine for, I believe, it was 267,000.

23 Mr. Aviles brokered the transaction with an
24 individual; we don't know his full name, only his nickname,
25 "Churro" (phonetic).

1 We conducted surveillance throughout that entire
2 incident, observed Mr. Rubio obtain the 10 kilograms of
3 cocaine, and as he was transporting it to Mr. Worrell's house,
4 we pulled him over and seized the 10 kilograms.

5 Q And just -- I know this was several years back, but what
6 was the approximate time frame of this seizure?

7 A Summertime of 2014.

8 Q Okay, let's move on to Ms. Lopez -- or back -- backing up
9 to Mr. Aviles, was there an arrest recently in this case?

10 A Not that I can recall.

11 Q Was a search warrant performed at a residence?

12 A Yes, sir.

13 Q Involving Mr. Aviles?

14 A Yes, sir. I obtained a search warrant for Mr. Aviles'
15 residence in Channelview, Texas, last Wednesday.

16 Q Okay. What, if anything, was recovered of evidentiary
17 value during that search warrant?

18 A I believe two firearms were recovered.

19 Q Okay, and what were the nature of the firearms?

20 A I'm sorry?

21 Q What were the nature of the firearms?

22 A I don't recall what kind of firearms they were; I believe,
23 pistols.

24 Q Okay, and is Mr. Aviles allowed to possess firearms
25 because of his criminal history?

1 A No, sir. He's a convicted felon.

2 Q Okay, let's move forward to Ms. Cynthia Lopez. Was she
3 involved in the overall conspiracy through the course of your
4 investigation?

5 A Yes, sir.

6 Q And explain to the Court how she kind of ended up on your
7 radar?

8 A We identified Cynthia before the wiretaps began. She was
9 the boyfriend -- common-law wife, father -- or mother of Alvaro
10 Romero's child. We identified her on phone tolls; like I said
11 before, we obtained a wiretap on Mr. Romero's phone.

12 We observed she was traveling to Brownsville, Texas,
13 I can't recall, but it was several times a month, if not at
14 least twice a month.

15 We then believe she was a courier. Once we obtained
16 a wiretap on Mr. Romero's phone, we confirmed and corroborated
17 that Ms. Lopez was a courier for -- for their organization.

18 Q Okay, were there any seizures where she would -- involving
19 her?

20 A Yes, sir. We seized 7 kilograms of methamphetamine when
21 she transported from Brownsville, Texas, to Houston, Texas.

22 Q Do you have any idea about the purity of this
23 methamphetamine?

24 A I don't recall.

25 Q Okay, let me ask you this: Was she involved in any sort

1 of monetary transfers involved in the conspiracy?

2 A Yes, sir.

3 Q Tell us about that.

4 A Several times -- like I said, she was a courier for
5 Mr. Romero. She would meet other co-defendants, either to
6 distribute marijuana or cocaine, and she would receive the
7 money in exchange and transport it back to Mr. Romero and
8 ultimately back to Brownsville, Texas.

9 Q Okay, and would that -- so the currency would be
10 transferred from one person to the other?

11 A She would handle the actual physical work of driving and
12 transporting it.

13 Q Okay, and did that further the, I guess, movement of the
14 currency from being drug proceeds into, I guess, other sources?

15 A Yes, sir.

16 Q Okay, did she have any involvement with powder cocaine as
17 well?

18 A Yes, sir. During intercepted calls on Alvaro Romero's
19 phone, and I believe also the other co-defendant, Miguel
20 Rodriguez, I believe the ballpark figure was around 12
21 kilograms of methamphetamine and 1 kilogram of cocaine.

22 Q Okay, this is in addition to the -- what was seized --

23 A Yes. And there's --

24 Q -- in casework?

25 A -- several hundred, I believe, 2, 300 pounds of marijuana

1 that she distributed also.

2 Q Okay, was a search warrant conducted recently at her
3 residence?

4 A Yes, sir.

5 Q And tell the Court about that.

6 A We seized -- seized an additional I believe 108 pounds of
7 marijuana.

8 Q And when was this? When did --

9 A This was --

10 Q -- this happen?

11 A -- I'm sorry -- last Wednesday a search warrant obtained
12 for her house in Houston, Texas.

13 Q Okay, let's move forward to Mr. Worrell. Was he also part
14 of this conspiracy with -- involving Alvaro Romero?

15 A Yes, sir.

16 Q And tell us how he came onto your radar.

17 A Him and his wife -- or his common-law wife, Maria
18 Barragan (phonetic) -- on the wiretap, they refer to her as
19 "Becky." They were obtaining multi-kilos of cocaine from Jose
20 Rubio, also known as Scrappy, who we had the wiretap on.

21 Q Okay, and so what was -- was there any incident with
22 powder on the table involving Mr. Worrell?

23 A Yes, sir. The 10 kilograms of cocaine that I spoke of
24 with Mr. Aviles, the 10 kilograms of cocaine that Mr. Rubio had
25 obtained from the guy we only know as Churro, was destined for

1 Mr. Worrell.

2 Q Okay. Let me ask you this. Was there a search warrant in
3 2014 at a residence belonging to Jose Rubio-Villegas?

4 A Yes, sir.

5 Q And tell us, did that involve Mr. Worrell in some way?

6 A Yes, sir.

7 Q And tell the Court about what happened there.

8 A We arrested Mr. Rubio a day after the 10 kilograms of
9 cocaine seizure, and we set up surveillance as residents while
10 we went to go obtain a search warrant.

11 While conducting surveillance, investigators observed
12 Mr. Worrell show up and place a note on the front door.

13 After I secured the search warrant and we executed
14 it, we obtained the note that he had placed on the front door,
15 and it said, "Call me", and I believe "Southwest Sid," which is
16 an alias known for him.

17 Q Okay. Did it reference any sort of past narcotic
18 activity?

19 A The note? No, sir.

20 Q All right.

21 **MR. RAPP:** I have no further questions, your Honor.

22 **THE COURT:** Okay, Mr. Silverman?

23 **MR. SILVERMAN:** Yes, your Honor.

24 //

25 //

1 **CROSS EXAMINATION**

2 **BY MR. SILVERMAN:**

3 Q Agent Emmerson, I'm Norm Silverman. I represent Arturo
4 Elizondo.

5 A Yes, sir.

6 Q I understand that you first ran across Arturo Elizondo
7 when you picked him up on a Title III wiretap where you were
8 listening in on Alvaro Romero's phone?

9 A Yes, sir, correct.

10 Q All right. And that was a wiretap that was procured by
11 you in February of 2014; is that right?

12 A I believe so. I don't remember the exact date.

13 Q All right. And through monitoring the calls on that
14 wiretap, you indicate that you learned that Mr. Elizondo was
15 buying cocaine?

16 A No, sir. A source of cocaine.

17 Q A source of cocaine, all right. And you had no controlled
18 buys from Mr. Elizondo; is that right?

19 A Yes, sir, no controlled buys.

20 Q All right. And the informant didn't give you information
21 about Mr. Elizondo; is that right?

22 A Correct, no information from the informants.

23 Q And so how did you identify Mr. Elizondo?

24 A I'd have to go back and look at the reports.

25 Q Okay, but you're confident that you identified him as

1 being the person you were hearing on the telephone?

2 A Yes, sir.

3 Q All right. So based on what you had heard, he was already
4 responsible for some quantity of cocaine?

5 A Yes, sir, from the wiretaps.

6 Q All right. And what quantity was that?

7 A I believe it was 19 kilograms of cocaine, approximately.

8 Q And that was just based on the -- on the first wiretap of
9 Alvaro Romero?

10 A I don't have a breakdown for each wiretap, but for the
11 wiretaps in total from December 2013 to, I believe it was July
12 2014, 19 kilograms of cocaine.

13 Q All right. And how many wiretaps are there here?

14 A Over ten, I believe.

15 Q Okay, and, I mean, some of those, you're going to be going
16 back up on the same person's phone --

17 A Yes, sir.

18 Q -- more than once.

19 A Some of them are the same individual.

20 Q How many discrete individual phones were wiretapped?

21 A I don't recall. I'd have -- I could maybe go through it
22 in my head if you need me to.

23 Q Yeah.

24 A I believe five or six. Some of them we obtained a
25 wiretap, got court approval, but the phone was either

1 discontinued either during the process or immediately after
2 signing. So there's a few that I can't recall. But I believe
3 five or six.

4 Q Okay. And so are you saying that just based on the Alvaro
5 Romero wiretap, you'd already established probable cause to
6 arrest Arturo Elizondo?

7 A We established probable cause to obtain a wiretap on his
8 phone.

9 Q Did you have probable cause to make an arrest?

10 A I believe so. There was more than enough cocaine that he
11 had distributed to Alvaro Romero.

12 Q Okay, and how do you know that that cocaine was actually
13 distributed?

14 A Through the wiretaps, either afterwards -- the
15 confirmation, money payment, or phone calls that Mr. Elizondo
16 made afterwards.

17 Q Did you see Mr. Elizondo paying money?

18 A Paint?

19 Q Paying money?

20 A No, not physically see him.

21 Q Okay. Were you able to conduct surveillance on
22 Mr. Elizondo?

23 A Yes, sir.

24 Q And were you able to conduct surveillance on Mr. Elizondo
25 before you obtained a wiretap on his phone?

Emmerson - Cross / By Mr. Wright

17

1 A Yes, sir.

2 Q All right. So you definitely knew who Mr. Elizondo was?

3 A Yes, sir.

4 Q All right. Did you know where he lived?

5 A I knew where he was conducting his drug transactions.

6 Q All right. And you were able to watch that occur?

7 A Yes, sir.

8 Q All right.

9 MR. SILVERMAN: Pass the witness.

10 THE COURT: Any further questions regarding his
11 questions?

12 Let me -- let's do it this way. Let me go ahead and
13 call the other Defendants' attorneys, and then we'll do a wrap
14 up Redirect.

15 Mr. Wright?

16 CROSS EXAMINATION

17 BY MR. WRIGHT:

18 Q Mr. Emmerson, I'm Russell Wright. I'm representing
19 Mr. Aviles.

20 A Yes, sir.

21 Q Would you recount the 10k buy of coke in the summer of
22 '14?

23 A Yes, sir. We intercepted on the wiretap on Jose Rubio, he
24 was attempting to obtain 10 kilograms of cocaine. He contacted
25 his cocaine source supplier which was Mr. Aviles.

1 Mr. Aviles brokered the transaction with an
2 individual we only know as Churro. If I recall, the address
3 that Mr. Aviles directed Mr. Rubio to go to was off of Biggs
4 (phonetic) Street, 6703 -- numbers are somewhere around that --
5 off Biggs.

6 Mr. Rubio showed up. We intercepted a call from
7 Mr. Aviles. He was making sure that Mr. Rubio had arrived, and
8 Mr. Rubio was asking Mr. Aviles is -- make sure that cocaine
9 was all there. And he confirmed that it was.

10 We saw Mr. Rubio go inside the residence, leave, and
11 on his way to Mr. Worrell's residence, we had him pulled over
12 and seized the 10 kilograms. It was in the trunk of, I
13 believe, a Dodge Challenger that Mr. Rubio was driving.

14 Q And you may have said this, but what number was the
15 wiretap on that you gained this information from?

16 A I can't recall the exact phone number.

17 Q Not the number, but whose phone was it?

18 A Mr. Rubio's -- Jose Rubio.

19 Q Okay. Now, how did you identify Mr. Aviles?

20 A I can't recall. I'd have to go back to the reports.

21 Q Okay, so your initial confidential informant did not
22 directly tie him to this conspiracy, correct?

23 A No, sir. We had no confidential informants that talked to
24 Mr. Aviles.

25 Q Okay, and how did you come up with the figure of 79 keys

1 for Mr. Aviles?

2 A I didn't come up with it. The other investigators and
3 analysis -- analyst in this case went through the wiretaps and
4 all the transactions that appeared to have been completed over
5 the wire -- or wiretaps came up with the ballpark figure of 79
6 kilograms.

7 Q And that would have been from February of '14 through
8 sometime of the summer of '14?

9 A The entire length of the investigation, yes, sir.

10 Q Did you have any surveillance set up on Mr. Aviles?

11 A Yes, sir, several times.

12 Q And during any of these transactions?

13 A Yes, sir.

14 MR. WRIGHT: I pass the witness, your Honor.

15 THE COURT: Okay, Mr. McElroy?

16 MR. MC ELROY: Thank you, your Honor.

17 CROSS EXAMINATION

18 BY MR. MC ELROY:

19 Q Agent Emmerson, how long did you take to prepare for the
20 hearing today to come up with these summaries that you're
21 presenting to our clients -- regarding our clients in this
22 hearing?

23 A I never came up with the actual summaries -- the
24 punishment (phonetic) summaries. That would be my partner that
25 did that.

1 Q Okay, so you're one of the investigators that's involved
2 in this case --

3 A Yes, there's --

4 Q -- not the only?

5 A Yeah, concerning there -- it was a large investigation;
6 there were several investigators and analysts that helped with
7 the case.

8 Q So the information you're relating to the Court isn't
9 necessarily something you personally observed or personally
10 reviewed, but rather something somebody else may have done?

11 A Not in all cases, but, yes, in some cases it is.

12 Q Can you distinguish between what you've said so far what
13 was yours and what was somebody else's, or does it all kind of
14 run together at this point?

15 A If you could break it down and ask me each specific
16 incident --

17 Q Yeah?

18 A -- I can tell you whether I was there or not.

19 Q Well, I represent Ms. Lopez in this case, and I'm
20 concerned about her at this point.

21 The allegation is that there was a conspiracy that
22 started in 2013 and ended in July 2014; is that correct?

23 A I believe so.

24 Q Okay.

25 A Approximate dates.

1 Q Did you ever have a wiretap on Ms. Lopez's phone?

2 A No, sir.

3 Q Okay, did you ever identify Ms. Lopez on any of the other
4 wiretaps?

5 A I believe only Alvaro Romero's and, possibly, Miguel
6 Rodriguez's.

7 Q You started out your explanation of her, that she's in a
8 relationship with one of the other members of the conspiracy;
9 is that correct?

10 A Used to be, yes, sir.

11 Q Okay, and who was that -- her person that she was in a
12 relationship with?

13 A Alvaro Romero.

14 Q And it's your understanding that they're no longer in a
15 relationship?

16 A Yes, sir.

17 Q Okay. You mentioned that you believe that she was
18 traveling back and forth to Brownsville?

19 A Yes, sir.

20 Q Okay. Was that observed activity?

21 A It was observed on one incident where she was stopped --
22 methamphetamine.

23 Q But you related to the Court that she was making multiple
24 trips a month?

25 A Yes, sir.

1 Q Okay. But you only observed that once?

2 A Physically. Observed it through other means, whether it
3 be electronic surveillance, license plate readers --

4 Q Was she ever stopped during any of those transportations?

5 A Not that I know of.

6 Q Okay.

7 A It wasn't -- if it was, it wasn't by my direction or
8 anything.

9 Q Okay, so there's no evidence that you could present to the
10 Court today that would show that there was "x" amount of drugs
11 or money in her trips to Brownsville based on evidence that was
12 seized?

13 A Yes, sir, there -- the 7 kilograms of methamphetamine that
14 we seized from her vehicle.

15 Q Well, I just asked you if there was anything seized from
16 any of her vehicles, and you said, "No."

17 A I didn't hear you say that, sir.

18 Q Okay. During any of her trips to Brownsville, was she
19 ever stopped and she found in possession of the vehicle when
20 there was drugs or money in the car?

21 A Yes, sir.

22 Q Okay. Was she arrested?

23 A She was detained and released.

24 Q Was she arrested?

25 A No, sir.

1 Q When did that happen?

2 A I don't recall; either maybe, summer 2014, spring 2014.

3 Q And where did that occur?

4 A Falfurrias, Texas, at the U.S. Border Patrol checkpoint.

5 Q And she has remained out at large since that time; is that
6 correct?

7 A Yes, sir.

8 Q And she still lives in basically the same area?

9 A I believe so. I don't know where she moved to.

10 Q She hasn't been charged with any crimes other than this?

11 A Correct.

12 Q Okay, and she has not been convicted of anything that
13 you're aware of in all the time since 2014?

14 A Since 2014, I don't believe so.

15 Q Okay. Has Ms. Lopez ever been in the Eastern District of
16 Texas until they brought her over here for these hearings?

17 A Not that I know of.

18 Q Okay. None of the trips that you described had any
19 contact with the Eastern District of Texas?

20 A No, sir.

21 Q Okay. Your allegation in the indictment is that this
22 conspiracy ended in July 2014?

23 A Approximately. I don't remember the exact dates.

24 Q When you talk about these recordings and you're making
25 historical statements about who's responsible for how much

1 drugs were involved --

2 A Yes, sir.

3 Q -- are they talking in plain language, like, "I've got 5
4 kilograms of cocaine I would like to sell. Will you give me
5 "x" amount of money for it?"

6 A No, sir.

7 Q Okay, they used code?

8 A Yes, sir.

9 Q Who's responsible for determining what code means?

10 A Everybody, including myself. I've written over 40
11 wiretaps, I've listened to several phones, I've done dozens of
12 undercover transactions. So just based on our training and our
13 experience, we can develop what's code and what the code --
14 coded language means.

15 Q Okay, so you come up with a code; do you then -- do you
16 have physical confirmation in every one of these circumstances
17 where there's a conversation, that what they actually said in
18 code was what actually transpired?

19 For example, they give the code for 1 kilogram of
20 cocaine; in each incidence, did you go seize or take pictures
21 of the cocaine that they're talking about?

22 A Not on every incidence, and no.

23 Q Okay. Two things that you talked about with relation to
24 Ms. Lopez; one had to do with some marijuana that you believe
25 was present; another has to do with methamphetamine. This

1 conspiracy involves powder cocaine, correct?

2 A Yes, sir.

3 Q And there are no seizures that relate to Ms. Lopez
4 involving powder cocaine; is that correct?

5 A No, sir.

6 Q Okay, you make no allegations about particular amounts of
7 money seized; are there any -- and you didn't when I asked you
8 questions about drugs or money. Is that -- should I understand
9 that to mean that there were never any cash amounts seized from
10 Ms. Lopez?

11 A I don't recall if there was cash seized from her.

12 Q Okay.

13 A I believe we did seize -- if we did seize cash, it was a
14 small amount. Nothing -- nothing great. I believe we seized
15 some from her residence, but maybe 4,000, \$5,000.

16 Q Was that during the period of the conspiracy or is that --

17 A No, the search warrant.

18 Q -- this warrant that you ran --

19 A Yeah, just the search warrant.

20 Q -- last Wednesday?

21 A No currency was seized from her that I recall during the
22 period of the conspiracy.

23 Q What residence did you search?

24 A I can't recall. It's -- like I said, it was ten

25 different -- or eight different locations. I believe it was --

1 it was off Aleman (phonetic) Drive. I can't remember the exact
2 numbers of the residence.

3 Q How did you confirm that that was Ms. Lopez's residence?

4 A We had an Intel analyst from Homeland Security and our
5 Intel analyst at DEA Galveston.

6 I believe they -- they found the -- I can't remember
7 how they -- how exactly they came up with that address, but
8 once we received the information that was possibly her address,
9 we had the FBI Texas Anti-Gang Unit conduct surveillance
10 several weeks prior to the actual arrest, and they visually
11 confirmed her staying there during nighttime hours from the
12 report.

13 Q You said, "staying there." Was there anybody else present
14 at that residence during that time period, come and go?

15 A I don't recall. This is one of those incidents where I
16 wasn't directly involved in the surveillance. It was tasked
17 out to FBI.

18 Q So this is third-party agent information that you don't
19 have personal knowledge of?

20 A Yes, sir.

21 Q Okay, there could have been other people that had access
22 to the residence where you believe something was seized?

23 A Yes, sir.

24 Q And again, all of this occurred outside the scope of the
25 conspiracy that you've alleged anyway?

1 A Yes, sir.

2 Q Okay.

3 MR. MC ELROY: Thank you. No further questions.

4 THE COURT: Mr. Bennett?

5 MR. BENNETT: May I, your Honor?

6 THE COURT: Yes, you may.

7 MR. BENNETT: Thank you.

8 CROSS EXAMINATION

9 BY MR. BENNETT:

10 Q I didn't hear you specify how you connected Mr. Worrell
11 with this conspiracy. You said that -- that you attributed
12 some drug transactions to him, but you didn't say how. Can you
13 explain that to us, please?

14 A Yes, sir. On the wiretap that we had on Mr. Rubio's
15 phone -- Jose Rubio-Villegas, we intercepted several calls
16 initially with his -- I believe his common-law wife, Maria
17 Barragan. They referred to her as "Becky" on the wiretap.

18 During one specific incident, the 10-kilogram cocaine
19 transaction that I talked about, Mr. Rubio went to go obtain
20 the 10 kilograms of cocaine, and on his way to Mr. Barragan's
21 residence, he was pulled over.

22 Q Okay, so I'm hearing two different things here, and I'd
23 like to understand which -- which is which.

24 You had a wiretap?

25 A Yes, sir.

1 Q It was on Mr. Rubio's phone?

2 A Yes, sir.

3 Q And on that phone, you heard Ms. Barragan's voice?

4 A Yes, sir.

5 Q Did you ever hear Mr. Worrell's voice?

6 A I don't recall. I don't believe so, no.

7 Q Okay, did you ever, as far as you know, capture
8 Mr. Worrell's voice on any wiretap?

9 A I don't recall it.

10 Q Okay, so the other thing is that you're saying that the
11 drugs that Mr. Rubio was arrested -- was Mr. Rubio arrested?

12 A Yes, sir.

13 Q Okay, that Mr. Rubio was arrested with, the 10 kilograms,
14 you say that that was on his way to Mr. Worrell's?

15 A Yes, sir.

16 Q What do you base that on?

17 A Based on the intercepted calls, like I said, with
18 Ms. Barragan, and then followed with the search warrant at the
19 residence where we saw Mr. Worrell show up. He placed the note
20 saying, "Call me", and then a debriefing with Mr. Rubio. He --
21 he cooperated immediately after his arrest, said he was on his
22 way to deliver it.

23 Q Okay, so Mr. Rubio says that he was delivering the cocaine
24 to Mr. Worrell's address?

25 A No, he didn't know his specific name; but, yes, he said he

1 was on his way to deliver it to Leeder (phonetic) Street.

2 Q Okay, and did he actually know Mr. Worrell?

3 A Yes, he said he -- he had completed five to ten
4 transactions ranging, I believe, 5 to 10 kilograms of cocaine
5 each transaction.

6 Q Okay, so how much controlled substances are you
7 attributing to Mr. Worrell in this conspiracy?

8 A Just, not counting that debriefing, only from the wiretap
9 of the 14 kilograms of cocaine.

10 Q Okay, so what was the other 4 kilograms?

11 A I don't recall the incident. There's, like I said, so
12 many.

13 Q Did Mr. Worrell -- and it was so long ago, right?

14 A Yeah, it was very long.

15 Q So what's been happening for the last four years on this
16 conspiracy?

17 A Just due to administrative reasons, the AUSA assigned to
18 the case had left, became a judge; it got reassigned several
19 other times. And during that process, I and other
20 investigators ended up working other investigations with
21 several other wiretaps, and this case kind of got pushed
22 further back until the AUSA assigned to it came on board and
23 we -- we put together the indictment packages.

24 Q Okay, but you were on the case in 2013, 2014?

25 A Yes, sir, I was.

1 Q And you've been continually employed in the DEA Galveston
2 field office --

3 A Yes, sir.

4 Q -- for that time?

5 Okay, so let's talk about Mr. Worrell during that
6 time. You know that he got in some trouble with the law,
7 right? After 2014, he got in some trouble with the law?

8 A I believe that I saw something on the criminal history.

9 Q Okay, but you're not familiar with it personally?

10 A I don't know the exact details, no, sir. No, just --

11 Q So if I were to -- if I were to ask you to confirm that he
12 was out on bond on a Federal -- or a State felony case and that
13 he faithfully appeared, including to serve his sentence in that
14 case, you wouldn't be able to confirm or refute that, right?

15 A No, sir. I only know this based off his criminal history.

16 Q Fair enough. There were no controlled buys and no
17 controlled deliveries involving Mr. Worrell?

18 A Correct, none.

19 Q There was no wiretap on his phone or on Maria Barragan's
20 phone?

21 A No, sir, no wiretaps.

22 Q Did Mr. Worrell show any other reaction to the seizure of
23 the 10 kilograms other than leaving a note on the door of
24 Mister --

25 A Rubio?

1 Q -- Rubio?

2 A What do you mean by "reaction"?

3 Q Was there anything else conspicuous about -- was there
4 anything conspicuous about how he reacted after the 10
5 kilograms was seized?

6 You know, sometimes we'll see that the person who is
7 owed the drugs or who's responsible for the drugs blows up the
8 phones, right, when drugs are seized?

9 A Yes, sir.

10 Q We see it all the time.

11 So was there anything of that nature in this case?

12 A I don't recall. I'd have to go back and look at reports.

13 Q Okay, but nothing that you prepared yourself to testify
14 about today?

15 A No, sir.

16 **MR. BENNETT:** I'll pass the witness, your Honor.

17 **THE COURT:** Any Redirect?

18 **MR. RAPP:** Just briefly, your Honor.

19 **THE COURT:** Very briefly.

20 **MR. RAPP:** Thank you.

21 **REDIRECT EXAMINATION**

22 **BY MR. RAPP:**

23 Q Just a few things I want to cover --

24 A Yes, sir.

25 Q -- with Ms. Lopez. Defense Counsel you -- asked you about

1 the search warrant at her house; do you remember that?

2 A Yes, sir.

3 Q How much marijuana was seized during the search warrant?

4 A Approximately 108 pounds.

5 Q A hundred and eight pounds? And this was a week ago?

6 A Yes, sir, last Wednesday.

7 Q Okay, let's talk about cocaine and ties to the Eastern
8 District of Texas?

9 A Yes, sir.

10 Q Did the investigation establish that?

11 A Yes, sir.

12 Q And tell us about that.

13 A There were several incidents, but I can -- I recall one
14 specifically on Alvaro Romero's first wiretap. I believe an
15 individual named Andre Goins (phonetic) arrived to purchase
16 half a kilogram of cocaine. He traveled from Louisiana to
17 Alvaro Romero's residence.

18 He obtained the half-kilogram. We followed him, and
19 he was stopped in Beaumont, Texas, and the half-kilogram of
20 cocaine was seized.

21 Q Okay, let me ask you, just broadly, we're attributing
22 these different weights to different individuals. What,
23 broadly, is the drug amount involved in the whole conspiracy,
24 if you know?

25 A Yeah, I don't know, sir.

1 Q Okay, but we're having 10 kilograms at a time of cocaine,
2 7 kilograms of actual methamphetamine; those are the amounts
3 per transaction; is that fair to say?

4 A Yes, sir. It was over a hundred kilograms of cocaine. I
5 just don't -- I can't give you not even a ballpark figure. I'm
6 not -- I'm not prepared for that.

7 Q Fair enough.

8 MR. RAPP: I have no further questions, your Honor.

9 THE COURT: Mr. Silverman, any questions based upon
10 his questions?

11 MR. SILVERMAN: Yes, sir. Can I just stand here?

12 THE COURT: Why don't we use the podium?

13 MR. SILVERMAN: All right. I'll go back up.

14 THE COURT: I hate to do it, Mr. Silverman --

15 MR. SILVERMAN: Yes, sir.

16 THE COURT: -- but we need to make sure we get a
17 record, okay?

18 MR. SILVERMAN: Okay.

19 RE CROSS EXAMINATION

20 BY MR. SILVERMAN:

21 Q So the nexus to Beaumont is the seizure of a half-kilo
22 from someone not charged in the indictment?

23 A No, I said that's one incident, sir.

24 Q Are there other Eastern District incidents?

25 A Yes, sir.

1 Q Like what?

2 A Like I said, I can't recall. The case was four years ago,
3 and there's a lot of -- lot of information.

4 Q Did you bring --

5 A But that's when I --

6 Q Did you bring any report with you today?

7 A No, sir, I don't bring reports with me when I testify.

8 Q But you wrote some?

9 A Yes, I wrote a lot of reports in the investigation.

10 Q And reviewed others?

11 A Yes, sir.

12 Q Okay, and you're in the Southern District of Texas?

13 A Yes, sir.

14 Q And so Mr. Elizondo is in the -- lives in the Southern
15 District of Texas, right?

16 A Yes, sir.

17 Q All right. And certainly you have no evidence connecting
18 Mr. Elizondo to Mr. Goins right?

19 A Not directly.

20 Q Well, do you have some indirect evidence?

21 A No, sir.

22 Q Okay, and so did you -- when the AUSA that had the case
23 became a judge, was that an AUSA in the Eastern District?

24 A Yes, sir.

25 Q So did you ever present this case to the Southern

1 District?

2 A No, sir.

3 Q Did you --

4 **MR. RAPP:** Objection; this is beyond the scope.

5 **THE COURT:** I'm going to go ahead and let him go into
6 it.

7 **BY MR. SILVERMAN:**

8 Q Did you ever present it to any other Federal District?

9 A No, sir.

10 Q What date was the last act done in furtherance of this
11 conspiracy by any conspirator?

12 A I don't recall, sir. It's four years ago.

13 **MR. SILVERMAN:** Pass the witness.

14 **THE COURT:** Okay, Mr. Wright, do you have any
15 questions --

16 **MR. WRIGHT:** No, your Honor.

17 **THE COURT:** -- based upon the questions?

18 Okay, Mr. McElroy?

19 **MR. MC ELROY:** No, your Honor.

20 **THE COURT:** And Mr. Bennett?

21 **MR. BENNETT:** No, your Honor.

22 **THE COURT:** Okay, may this witness step down?

23 **MR. RAPP:** Yes, your Honor.

24 **THE COURT:** Thank you, sir.

25 **THE WITNESS:** Thank you, sir.

1 **THE COURT:** Government rest, Mr. Rapp?

2 **MR. RAPP:** The Government does rest.

3 **THE COURT:** Okay. Mister -- Mr. Silverman, do you
4 have any -- any witnesses you wish the Court to listen to?

5 **MR. SILVERMAN:** Your Honor, I had the -- I proffered
6 witnesses to -- to the probation officer, and I brought some
7 exhibits that I wanted to proffer into evidence. I forgot to -
8 -

9 **THE COURT:** Go ahead and use the podium over there,
10 Mr. Silverman.

11 **MR. SILVERMAN:** Okay.

12 **THE COURT:** I'm (indiscernible) about that. And,
13 gentlemen, so that you know that -- that I usually -- I don't
14 mind taking a proffer, but I like to hear -- if it's basically
15 just going to be a third-party custodian, I like for them to
16 testify so that I can -- under oath, if that's a possibility.

17 **MR. SILVERMAN:** All right.

18 **THE COURT:** But if you insist on proffering, I'll
19 take --

20 **MR. SILVERMAN:** No.

21 **THE COURT:** -- it under consideration.

22 **MR. SILVERMAN:** No. I will call my witness.

23 **THE COURT:** Okay, that will be fine.

24 **MR. SILVERMAN:** And that would be the mother of
25 Arturo Elizondo.

1 Yes, ma'am.

2 **THE COURT:** If you'll come on up here, ma'am, I'll
3 need to swear you in.

4 **THE CLERK:** We're going to need a translator.

5 **MR. SPEAKER:** I think you're going to need a
6 translator.

7 **MR. SILVERMAN:** Oh, okay.

8 **THE COURT:** That's okay. Right there. What's your
9 name, ma'am?

10 **THE WITNESS:** Claudia Elizondo.

11 **THE COURT:** Ms. Elizondo, do you swear -- raise your
12 right hand for me, okay?

13 **CLAUDIA ELIZONDO, DEFENDANT ELIZONDO'S WITNESS, SWORN**

14 **THE COURT:** Thank you. If you'll have a seat,
15 please, ma'am.

16 **MR. SILVERMAN:** Judge, does the Court have an
17 interpreter present?

18 **THE COURT:** We don't have one -- well, we don't have
19 one available right now. I could have got you one if I'd have
20 known. It's got to be a court --

21 Ms. Elizondo, do you -- I want to make sure that you
22 can understand Mr. Silverman and you can understand me. Can
23 you understand us okay?

24 **THE WITNESS:** I don't know. I think I need help.

25 **THE COURT:** Okay.

1 **MR. SILVERMAN:** I'm sorry.

2 **THE COURT:** That's okay.

3 **MS. SPEAKER:** She's able to understand simple
4 sentences.

5 **THE COURT:** Why don't we -- why don't we do this; why
6 don't we -- I'll go ahead and take up -- we'll see if Ms. White
7 can get somebody on the line at the last minute. If not, I'll
8 take a proffer testimony.

9 **MR. SILVERMAN:** I'm sorry.

10 **THE COURT:** That's okay. Don't worry about that.

11 Ma'am, why don't you just have a seat and we'll see
12 if we can get an interpreter on the line, okay?

13 **THE WITNESS:** Okay. Thank you.

14 **THE COURT:** Thank you, ma'am.

15 **(Witness steps down)**

16 **THE COURT:** Why don't we go ahead and go to
17 Mr. Wright?

18 **MR. WRIGHT:** Thelma Orozco --

19 **THE COURT:** Ms. Orozco?

20 **MR. WRIGHT:** -- his wife.

21 **THE COURT:** Okay. Let me go ahead and swear you in,
22 ma'am, okay?

23 //

24 //

25 //

1 **THELMA OROZCO, DEFENDANT AVILES' WITNESS, SWORN**

2 **DIRECT EXAMINATION**

3 **BY MR. WRIGHT:**

4 Q State your name, please.

5 A Thelma Orozco.

6 Q And how old are you?

7 **THE COURT:** Can you spell your name for me, please,
8 ma'am?

9 **THE WITNESS:** T-H-E-L-M-A.

10 **THE COURT:** T-H-E --

11 **THE WITNESS:** -- L-M-A.

12 **THE COURT:** -- L-M-A. Okay, thank you, ma'am. And
13 spell your last name?

14 **THE WITNESS:** Orozco; O-R-O-Z-C-O.

15 **HE COURT:** Thank you so much.

16 **BY MR. WRIGHT:**

17 Q And your age?

18 A Thirty.

19 Q And where do you live?

20 A In Channelview.

21 Q And how long have you lived in Channelview?

22 A I've been there for about three years.

23 Q At the same residence?

24 A Correct.

25 Q Are you employed?

- 1 A Yes, sir.
- 2 Q And where are you employed?
- 3 A Leland Baking Company (phonetic).
- 4 Q And how long have you been employed there?
- 5 A I've been there seven years.
- 6 Q And what is your job title?
- 7 A Human resource associate.
- 8 Q Okay, do you have a family, other than your husband?
- 9 A Yes, sir, I have a son.
- 10 Q And how old is he?
- 11 A He's 6 years old.
- 12 Q Does he reside with you?
- 13 A Yes, sir.
- 14 Q And it's my understanding that you're also expecting a
- 15 child?
- 16 A Correct, sir.
- 17 Q And that's your husband's child; is that correct?
- 18 A Yes, sir.
- 19 Q And that child is due in June of this year?
- 20 A Yes, sir.
- 21 Q Give us a little background as to your husband, his work
- 22 history. What -- does he work currently?
- 23 A Yes, he does, sir.
- 24 Q And where does he work?
- 25 A He works at Matrix (phonetic).

1 Q And how long has he been at that job?

2 A He's probably been there about nine months; nine or ten
3 months, give or take, but he's been employed at other plants.
4 Just when the contract's end, he'll move to another plant,
5 another refinery plant.

6 Q Okay, and is that a 40-hour-a-week job or --

7 A Yes, it's 50.

8 Q Okay, and he works that job every day?

9 A Yes, sir.

10 Q Okay, do you need his income to help pay the bills at
11 home?

12 A Yes.

13 Q Is it critical -- that his income is critical to your
14 support and the family's support?

15 A Yes, sir.

16 Q Have you ever been arrested before?

17 A No, sir.

18 Q Okay, and you've been interviewed by the probation
19 department in this case?

20 A Yes.

21 Q And it's your understanding that they determined you to be
22 a suitable third-party custodian?

23 A Yes, sir, I got confirmation today.

24 Q Okay, and do you kind of understand what's expected of a
25 third-party custodian?

1 A More so, yes, sir.

2 Q That you're partly the eyes and ears for the Court and
3 that you're telling the Court that you will make sure that your
4 husband gets to court?

5 A Yes, sir.

6 Q And you will drive him to court, if necessary?

7 A Yes, sir.

8 Q And you will also assure the Court that he complies with
9 any conditions that the Court may set?

10 A Yes, sir, I will.

11 Q Which would mean that you would have to contact probation
12 or the Court if he violated any of the conditions?

13 A Yes, sir.

14 Q And if the Court saw fit, you may possibly have to sign a
15 surety bond that would obligate you if your husband failed to
16 appear to that sum of money?

17 A Yes, sir.

18 Q And you're willing to act as a third-party custodian?

19 A I sure am, sir.

20 Q Do you think your husband would appear for court?

21 A I definitely do.

22 Q Okay.

23 **MR. WRIGHT:** I pass the witness, your Honor.

24 **THE COURT:** Okay, any questions, Mr. Rapp?

25 //

1 **CROSS EXAMINATION**

2 **BY MR. RAPP:**

3 Q About a week ago, was a warrant executed at your home?

4 A Yes, sir.

5 Q Okay, and you have no reason to disagree with me that
6 firearms were recovered from that home, correct?

7 A Correct.

8 Q Okay, and Mr. Aviles is a convicted felon; is that
9 correct?

10 A From what I'm hearing at the court -- from what they're
11 saying.

12 Q Okay, you understand you're not allowed to have --
13 convicted felons aren't allowed to have guns; you understand
14 that, right?

15 A Yes. Those firearms are under my name. I wasn't aware
16 that -- if he wasn't supposed to be --

17 Q You understand this whole thing is about rules, right?

18 A Most -- most things are, yes, sir.

19 Q Fair enough. And should you be a third-party custodian,
20 you have some rules about what your -- what he's allowed, what
21 he's not allowed to do; you understand that?

22 A Yes, sir.

23 Q When he's supposed to go to court, correct?

24 A Yes, sir.

25 Q When he's not supposed to go to court?

1 A Yes, sir.

2 Q Okay.

3 MR. RAPP: I have no further questions.

4 THE COURT: Okay, any follow-up?

5 MR. WRIGHT: No, your Honor.

6 THE COURT: We have an interpreter? Okay.

7 Mr. Wright, do you --

8 MR. WRIGHT: I have no further questions, your Honor.

9 THE COURT: Okay, thank you.

10 MR. WRIGHT: And no further witnesses.

11 THE COURT: Okay, thank you. You rest?

12 MR. WRIGHT: Yes, sir.

13 THE COURT: Okay, I think we have an interpreter on
14 the line.

15 Thank you, ma'am, you can sit down. Thank you.

16 THE WITNESS: Thank you.

17 (Witness steps down)

18 MR. WRIGHT: Thank you, your Honor.

19 THE COURT: You're welcome.

20 (Discussion between Attorney and Witness)

21 THE COURT: Norm, she'll have to sit at the table so
22 she can use -- Mr. Wright, if you and your client could move
23 over to the side over there so I could sit -- sit her there.

24 MR. SILVERMAN: Go ahead and have a seat right there.

25 THE COURT: Hang on just a second, hang on just a

1 second. Let's do this. Sit her at the end of the prosecution
2 table right there.

3 **MR. SILVERMAN:** Okay, come sit --

4 **THE COURT:** Thank you.

5 **MR. SILVERMAN:** -- right here.

6 **THE COURT:** Oh, that's right. That's right. I'm
7 sorry, she can't get to the phone.

8 **MR. SILVERMAN:** We can move the microphone down --

9 **THE COURT:** No, let's do -- let's do this. Let's --
10 I'll ask everyone to -- everyone and their clients to step back
11 away from the table, so that way that --

12 Is it okay, gentlemen? Okay.

13 If you'll go ahead and step over -- step over there,
14 please, sir.

15 **MR. SILVERMAN:** Okay.

16 **THE CLERK:** Wait, wait, wait. I have to get him on
17 the line.

18 **THE COURT:** Have to get him on the line. Hang on a
19 second.

20 And, Kevin, make sure she can get to the phone right
21 there.

22 **(Pause)**

23 **THE INTERPRETER:** Okay, the interpreter is ready.

24 **MR. SILVERMAN:** Okay, all right.

25 **THE COURT:** Okay, we're back -- we're back on the

1 record. And this is the detention hearing regarding Mister --

2 **MR. SILVERMAN:** Arturo Elizondo.

3 **THE COURT:** -- Arturo Elizondo. And we have a
4 witness, and we have Mr. Carbajosa on the line again as an
5 interpreter.

6 Mr. Carbajosa, you're currently under oath, and I
7 administered that oath earlier in the day.

8 So we'll proceed. Go ahead, Counsel.

9 **MR. SILVERMAN:** Thank you, your Honor.

10 **CLAUDIA ELIZONDO, DEFENDANT ELIZONDO'S WITNESS**

11 **PREVIOUSLY SWORN**

12 **(Testimony through Translation)**

13 **DIRECT EXAMINATION**

14 **BY MR. SILVERMAN:**

15 Q Ms. Elizondo, would you please state your name for the
16 record?

17 A Claudia Elizondo.

18 Q All right. I'm going to ask you a couple of questions.
19 If you don't understand me or if you don't understand the
20 interpreter, just stop and tell us, okay?

21 **THE COURT:** Norm, let her answer. Because she --

22 **THE INTERPRETER:** Yes, very well.

23 **THE COURT:** Okay, let the interpreter come back to me
24 with it on the speaker. Okay, go ahead.

25 **MR. SILVERMAN:** Okay.

1 **THE COURT:** Just slow it down for me.

2 **MR. SILVERMAN:** Yes, sir.

3 **BY MR. SILVERMAN:**

4 Q Is your son Arturo Elizondo?

5 A Yes, sir.

6 Q And have you known him his whole life?

7 A Yes, sir.

8 Q Do you know that he has three daughters?

9 A Yes, sir.

10 Q I'm going to show you four pictures which are numbered 11
11 to 14 of Mr. Elizondo's -- Arturo Elizondo's family, okay?

12 A Yes, sir. Those are --

13 Q All right, are those your grandchildren?

14 A Yes, they are my grandchildren. It's my son, my daughter,
15 and my daughter-in-law.

16 **MR. SILVERMAN:** All right. We offer 11 through 14.

17 **THE COURT:** They'll be admitted as marked with no
18 objection.

19 **(Defendant Elizondo's Exhibits Numbers 11 through 14 were**
20 **received in evidence)**

21 **BY MR. SILVERMAN:**

22 Q Where -- now your son, before he was arrested, Arturo
23 Elizondo, lived with his wife and children in Houston; is that
24 right?

25 A Yes, sir.

1 Q Do you also live in Houston?

2 A Yes, sir.

3 Q What -- what is your address?

4 A My address is 11511 Willowood (phonetic), Texas, Houston,
5 77022.

6 Q How long have you lived -- how long have you lived --

7 A I've lived there, like, about 19 years -- 17 years.

8 Q With whom do you live at that house?

9 A I live with my husband.

10 Q If the Judge saw fit to let Arturo Elizondo out on bond,
11 if he would live with you and your spouse, would you permit him
12 to live at your house?

13 A Yes, sir, of course. Of course.

14 Q If the Judge required that you serve as what's called a
15 third-party custodian -- first of all, do you understand what
16 that means?

17 A Yes, I do know, sir.

18 Q All right. And my wife, Daphne (phonetic), who's also a
19 lawyer, explained all of that to you; is that right?

20 A Yes.

21 Q And you --

22 A Yes, I understand.

23 Q All right. And you understand that the Court would be
24 trusting you to make sure that Arturo Elizondo attends all of
25 his court dates, right?

1 A Yes, sir.

2 Q And follows the conditions of bond?

3 A Yes, sir.

4 Q And generally follows the law?

5 A Yes, sir.

6 Q Would you be willing to serve in that capacity?

7 A Yes, sir.

8 Q Now, Mr. Elizondo -- Arturo Elizondo was working and had
9 his own business at the time of his arrest; are you familiar
10 with that?

11 A Yes, sir.

12 Q And you know that he had a flatbed truck -- and I'm going
13 to ask you to look at some pictures and see if you recognize
14 this vehicle.

15 A Yes, sir; yes, sir.

16 Q I'm showing you pictures 1 through 10.

17 A Okay.

18 Q Take a look at these.

19 A I'm looking at them. These are the ones.

20 Q And is that Mr. Arturo Elizondo's truck?

21 A Yes, sir, that's it.

22 Q All right. Now, that truck was seized by the police when
23 they arrested Arturo Elizondo; did you know that?

24 A Yes, sir.

25 Q So one of the conditions the Judge would require of Arturo

1 Elizondo is that he get a job and --

2 A Yes, sir.

3 Q Would you help the Court by requiring that Arturo Elizondo
4 work?

5 A Yes, sir.

6 Q All right. Now, the hardest thing, I think, for a mother
7 is, if Mr. Arturo Elizondo does not follow a condition of the
8 Court, it's the job of the third-party custodian to call the
9 authorities and tell them that he's not following the rules.

10 Would you do that?

11 A Yes, sir.

12 Q All right.

13 **MR. SILVERMAN:** Pass the witness.

14 **THE COURT:** Any questions, Mr. Rapp?

15 **MR. RAPP:** Yes, sir.

16 **MR. SILVERMAN:** Oh, I offer my work truck pictures,
17 one through ten.

18 **THE COURT:** Any objection to the other pictures?

19 **MR. SILVERMAN:** I'm sorry.

20 **MR. RAPP:** No, Judge.

21 **THE COURT:** And what numbers are those?

22 **MR. SILVERMAN:** One through ten.

23 **THE COURT:** I'm sorry?

24 **MR. SILVERMAN:** One through ten, your Honor.

25 //

1 **THE COURT:** They'll be admitted as marked.

2 **(Defendant Elizondo's Exhibits Numbers 1 through 10 were**
3 **received in evidence)**

4 **MR. RAPP:** Can I get the screen?

5 **THE WITNESS:** Very well.

6 **THE COURT:** Mr. Rapp, let's go ahead and proceed.
7 You may show her the pictures if you -- if you want her to look
8 at them, we -- something's wrong with the light. We can't get
9 the screen to come on. So go ahead.

10 And make sure and take your time because she's using
11 a translator, okay?

12 **MR. RAPP:** Understood.

13 **THE WITNESS:** Very well.

14 **CROSS EXAMINATION**

15 **BY MR. RAPP:**

16 Q Ma'am, who all lives in the house he was -- your son was
17 living in a week ago?

18 A He lives there, his daughters, and his wife do.

19 Q Okay, do they still live there?

20 A Yes, they still live there.

21 Q Okay, and you're aware the police came to his house and
22 arrested him about a week ago; you know that, right?

23 A Yes, yes. Yes, sir.

24 Q Okay, and while his children were living there, police
25 recovered a half-ounce of cocaine in his house; did you know

1 that?

2 **THE INTERPRETER:** Interpreter didn't hear the
3 amounts, I'm sorry?

4 **BY MR. RAPP:**

5 Q A half an ounce of cocaine was recovered in his house
6 while his children were living there; were you aware of that?

7 A Yes, sir.

8 Q And a half-ounce of methamphetamine was also recovered
9 where his children live; were you aware of that?

10 A Yes, they told me.

11 Q And a firearm, a pistol, was also recovered where his
12 children were living; were you aware of that?

13 A Yes, sir.

14 Q Okay, and you know that he's a convicted felon, correct?

15 A Yes, sir.

16 Q Okay, he's not allowed to have guns, right?

17 A No, that's not allowed. I do know that, sir.

18 Q Okay. In addition, marijuana was in the house, as well,
19 where his children were, a week ago; you know that, right?

20 A Yes, sir.

21 Q Okay.

22 **MR. RAPP:** I have no further questions, your Honor.

23 **THE COURT:** Mr. Silverman, do you have anything to
24 follow up?

25 **MR. SILVERMAN:** No, sir.

1 **THE COURT:** Okay, thank you -- ma'am, thank you so
2 much.

3 Jorge, thank you for being with us on short notice.
4 I really appreciate that.

5 **THE INTERPRETER:** You're very welcome, your Honor.
6 Thank you.

7 **THE COURT:** Thank you.

8 **THE INTERPRETER:** And thank you.

9 **THE COURT:** We're going to -- we're going to take
10 just a very short recess while -- a restroom recess so that
11 everybody can get situated. I'll be right back out in about a
12 minute.

13 **THE MARSHAL:** All rise.

14 **(Recess was taken from 3:58 to 4:03 p.m.)**

15 **THE COURT:** Okay, we're back on the record in the
16 detention hearing.

17 Mr. McElroy, do you have any witnesses that you wish
18 to call in this matter?

19 **MR. MC ELROY:** Yes, your Honor.

20 Ms. Lopez would call Maria Zavary to the stand.

21 **THE COURT:** Ms. Zavary?

22 Ms. Zavary, let me swear you in, okay?

23 //

24 //

25 //

1 **MARIA ZAVARY, DEFENDANT LOPEZ'S WITNESS, SWORN**

2 **THE COURT:** Thank you, now. Make sure and speak
3 clearly in the microphone for me.

4 **DIRECT EXAMINATION**

5 **BY MR. MC ELROY:**

6 Q Ma'am, could you state your name for the record?

7 A Maria Zavary.

8 Q And where do you live?

9 **THE COURT:** Ms. Zavary, how do you -- how do you
10 spell your last name?

11 **THE WITNESS:** Z-A-V-A-R-Y.

12 **THE COURT:** -- A-V-A-R-Y?

13 **THE WITNESS:** Correct.

14 **THE COURT:** Okay, and the first name is Maria?

15 **THE WITNESS:** Maria.

16 **THE COURT:** Thank you.

17 **THE WITNESS:** Uh-huh.

18 A I live at 16419 Pinon Vista Drive, Houston, Texas, 77095.

19 Q How long have you lived in the Houston area?

20 A Sixteen years.

21 Q Okay. Do you have a job?

22 A Yes.

23 Q And where do you work?

24 A As a dental assistant at a dental office.

25 Q Okay, how long have you done that?

1 A It's already been three years.

2 Q Okay. Do you have a car?

3 A Correct.

4 Q And you used that car to get here today?

5 A Yes.

6 Q Okay. Have you ever been convicted of any crime other
7 than like a traffic offense?

8 A No, sir.

9 Q Okay. And what is your relationship to Cynthia Lopez?

10 A Sister.

11 Q Are you her younger sister or older sister?

12 A One year older.

13 Q Okay, so you've known her all her life?

14 A Correct.

15 Q All right. Who lives at your residence currently?

16 A My husband and four kids.

17 Q Okay, does anybody at your residence have any firearms or
18 guns?

19 A No.

20 Q Okay. Does anybody have any criminal history that lives
21 there?

22 A No.

23 Q Do you know if Cynthia has a job?

24 A Yes.

25 Q And what kind of job is it, as best you know?

1 A It's an electric company called Stream (phonetic).

2 Q And she works out of her home to do that job, correct?

3 A Correct, yes.

4 Q So if the Judge ordered her to have a job, but to live
5 with you, she could actually do that job from your house?

6 A Yes.

7 Q Is that correct?

8 A Uh-huh.

9 Q Okay, as far as you know, she still has that job, correct?

10 A Yes.

11 Q Other than yourself and your family, does Cynthia have any
12 family in the Houston area?

13 A Yes, my mom -- sorry, my mom lives with me, too. She just
14 moved in.

15 Q Okay, and what other relatives that, you know --

16 A I have another sister and two other brothers.

17 Q Okay, does Cynthia have any children that live in the
18 area?

19 A Yes, a son.

20 Q Okay, do you believe that they, along with yourself, will
21 support her if the Judge releases her?

22 A Yes.

23 Q Do you believe that Cynthia would be a serious flight risk
24 if she were released by the Judge?

25 A No.

1 Q Why not?

2 A She's a good mom, a great grandma, she's just good, a good
3 person.

4 Q Okay, do you believe that she would present any danger to
5 the community if she were released? And I mean more than
6 simply a physical danger, but like that she would violate the
7 law or do something else.

8 A None at all.

9 Q Okay, do you believe she would try to in any way put you
10 at risk if you were her third-party custodian?

11 A No.

12 Q Okay. Did you and I talk about the responsibilities of
13 third-party custodian?

14 A Yes. Yes, sir.

15 Q Did you also speak with somebody with the Pretrial
16 Services Offices; a probation officer? You don't need to know
17 their name, but you did speak with someone?

18 A Yes.

19 Q Okay, I think it was Mr. Goforth, though, correct?

20 A Yes, that was Mark Goforth, I think.

21 Q Okay. And you, after having those conversations,
22 understand the role of a third-party custodian?

23 A Correct.

24 Q Are you willing to serve as Cynthia's third-party
25 custodian under the direction of this Court?

1 A Yes.

2 Q You promise to comply with all the instructions that the
3 Court give you as a third-party custodian?

4 A Yes.

5 Q That would include making sure that she shows up when the
6 Court has ordered her to do so; you understand?

7 A Yes.

8 Q Also to make sure that she obeys the terms and conditions
9 of whatever her release is?

10 A Yes.

11 Q If she violates any of those terms and conditions, it
12 would be your responsibility to make sure that the proper
13 authorities are notified; you understand that?

14 A Correct, yes.

15 Q Could you still do that, even though she's your younger
16 sister?

17 A Yes.

18 Q Okay. You understand that, if for any reason, you neglect
19 those duties of the third-party custodian, there could be
20 penalties that are attributable to you?

21 A That's -- yes, that's fine.

22 Q And you're willing to do that?

23 A Yes, correct.

24 Q Okay, if the Judge requires that you sign a bond in this
25 case, are you willing to do that as well?

1 A Yes.

2 Q Thank you, Ms. Zavary.

3 **MR. MC ELROY:** I have no further questions.

4 **THE COURT:** Mr. Rapp?

5 **CROSS EXAMINATION**

6 **BY MR. RAPP:**

7 Q Ma'am, as of a week ago, who all was living in your
8 sister, Cynthia's, home?

9 A It was her and a boyfriend.

10 Q Okay, is there a baby around as well?

11 A She helps --

12 Q I'm sorry?

13 A She helps with the baby -- her grandbaby.

14 Q Her grandbaby, okay.

15 A Yes.

16 Q So, it was around the home?

17 A Yeah, she's -- the baby doesn't live there, she just
18 babysits.

19 Q Okay, is there a room the baby would stay in?

20 A Yes.

21 Q Okay, and about a week ago the police did a search warrant
22 at that home?

23 A Uh-huh.

24 Q You're aware of that, correct?

25 A What I heard, yes.

1 Q Okay, and they recovered more than a hundred pounds of
2 marijuana in the center room of the house; you know that,
3 correct?

4 A I didn't know that.

5 Q Okay. They also recovered a pistol in the room where the
6 baby stays; are you aware of that?

7 A No.

8 Q Okay. Well, you're presenting yourself as --

9 A I just found out now about the --

10 Q Okay.

11 A -- pounds of marijuana.

12 Q So you didn't know any of that?

13 A No.

14 Q But as a third-party custodian, you got to kind of know
15 what she does; you understand that?

16 A Yes, that's fine.

17 Q And you'd agree with me that, as of a week ago, you didn't
18 know about the marijuana, you didn't know about the guns,
19 right -- the gun?

20 **MR. MC ELROY:** Objection; argumentative, your Honor.
21 She already said she didn't know.

22 **THE COURT:** Sustained. Go ahead and move along.

23 **MR. RAPP:** Okay.

24 **THE COURT:** She said she didn't know.

25 //

1 **BY MR. RAPP:**

2 Q I guess my question for you --

3 A Uh-huh.

4 Q -- is if you didn't know that was going on a week ago, how
5 can you assure the Court you'll prevent her from committing
6 other crimes going forward?

7 A Because I know her.

8 Q Okay. Thank you.

9 **MR. RAPP:** I have no further questions.

10 **THE COURT:** Mr. McElroy?

11 **MR. MC ELROY:** Nothing further. And the Defense of
12 Ms. Lopez, we rest.

13 **THE COURT:** Okay, thank you, ma'am. You may step
14 down.

15 **(Witness steps down)**

16 **THE COURT:** Mr. Bennett?

17 **MR. BENNETT:** Thank you, your Honor.

18 Your Honor, before I call my witness, may I proffer
19 something from the Harris County District Clerk's records?

20 **THE COURT:** Yes, you may.

21 **MR. BENNETT:** I didn't bring a printout of it, but if
22 it's contested, I can certainly provide a printout of it.

23 And that is, that the last time that Mr. Worrell was
24 arrested, which is reflected in the Pretrial Report as the
25 attempted felon in possession case, between 2015 and 2017, on

1 Page 6, that he made bail on that case and faithfully appeared
2 in court every time as required and, in fact, was allowed to
3 continue on bail after his guilty plea and to self-report to
4 the jail, which he did in the end there in July of 2017.

5 It's just -- it's not reflected in the Pretrial
6 Services Report, but I think that's an important aspect of
7 Mr. Worrell's criminal history to look at.

8 **THE COURT:** I'll accept that proffer. Go ahead.

9 **MR. BENNETT:** Thank you, your Honor.

10 **THE COURT:** You're welcome.

11 **MR. BENNETT:** I would call Gloria Worrell, please,
12 your Honor.

13 **THE COURT:** Ms. Worrell?

14 Ms. Worrell, let me go ahead and place you under
15 oath, okay? Do you -- raise your right hand for me.

16 **GLORIA WORRELL, DEFENDANT WORRELL'S WITNESS, SWORN**

17 **THE COURT:** Thank you, ma'am, if you'll have a seat.

18 And make sure and speak into the microphone for me, okay?

19 **THE WITNESS:** Yes, sir.

20 **DIRECT EXAMINATION**

21 **BY MR. BENNETT:**

22 Q Ms. Worrell, would you introduce yourself to Judge Giblin,
23 please?

24 A I'm Gloria Worrell.

25 Q What's your relationship to Mr. Worrell, Sid Worrell,

1 who's sitting at the table here?

2 A That's my son.

3 Q So you've known him his whole life?

4 A Yes, sir.

5 Q All right. Do you live here -- do you live near him?

6 A Yes, sir.

7 Q Where do you live?

8 A I live at 11034 West Bellfort, Houston, Texas.

9 Q And he -- where does he live?

10 A He lives -- sometimes he's at the house with me and
11 sometimes he's with his wife.

12 Q Okay, and if Judge Giblin allows him to be released on
13 conditions, that is, on bail, can he live with you?

14 A Yes, sir.

15 Q And if he's living with you, do you feel comfortable
16 promising Judge Giblin that you'll make sure that Sid walks the
17 straight and narrow while he's living with you and that he
18 comes to court as he's supposed to and he stays out of trouble?

19 A Yes, sir.

20 Q Now, I know that Mr. Rapp is going to ask you this
21 question, so let me ask you this question before he can get to
22 it, which is, how do you know that, since he's been getting in
23 trouble when he's not living with you?

24 A Well, I know Sidney. He's my child and he loves his
25 mother dearly. And when I talk to him, most of the time, he

1 listens.

2 Q Thank you. Are you willing to -- if he gets in trouble
3 while -- or if you see him getting into trouble while he's
4 released on conditions, are you willing to call the police, to
5 call Mr. Rapp, to call the Court and say, "I can't do this
6 anymore. He's going to get into trouble. I can't be
7 supervising him"?

8 A Yes, sir.

9 Q Do you own your house?

10 A Yes, sir.

11 Q Are you willing to sign a bond, a promise, that if
12 Mr. Worrell does not come to court, that you'll pay money --

13 A Most definitely.

14 Q -- to guarantee that he will appear as required?

15 A Yes, sir.

16 Q Okay.

17 MR. BENNETT: I'll pass the witness, your Honor.

18 THE COURT: Mr. Rapp?

19 THE WITNESS: Yes, sir.

20 CROSS EXAMINATION

21 BY MR. RAPP:

22 Q Ma'am, have you ever served as a third-party custodian for
23 him before?

24 A Yes, sir.

25 Q And when was that?

1 A That was like, when -- two -- I don't quite remember.

2 Q Was it the last time he had a Federal case?

3 A Yes, I served as a custodian.

4 Q Okay, and that was at some point in 2003 in a Federal case
5 in Houston, Southern District of Texas?

6 A Yes, sir.

7 Q Okay, and fact is, during the course of that case, he
8 bench warranted when you were a third-party custodian, did he
9 not?

10 A He bench what? Could you explain?

11 Q Okay. Well, I'm looking at the paper here. It says, "On
12 April 5th, 2004, Defendant failed to appear for a Pretrial
13 Conference and a bench warrant was issued."

14 Any reason to disagree that the paper says that?

15 A I have no reason to disagree.

16 Q Okay, and no reason to disagree that this is while you
17 were a third-party custodian for him, correct?

18 A I cannot recall it.

19 Q Fair enough, ma'am.

20 **MR. RAPP:** I have no further questions, your Honor.

21 **THE COURT:** Any further questions, Mr. Bennett?

22 **REDIRECT EXAMINATION**

23 **BY MR. BENNETT:**

24 Q Is there anything different now about your son, Sid, than
25 there was in 2003? Has anything changed?

1 A Yes, sir.

2 Q What?

3 A He's more loving, obedient. He listens to his mom because
4 he's the only one I have right now to depend on when I'm sick,
5 and he's there for me. I can depend on him.

6 Q He's grown up?

7 A Yes, sir.

8 **MR. BENNETT:** I'll pass the witness, your Honor.

9 **THE COURT:** Any other questions?

10 **MR. RAPP:** No, your Honor.

11 **THE COURT:** Okay, thank you, ma'am. You can step
12 down.

13 **THE WITNESS:** Thank you.

14 **(Witness steps down)**

15 **THE COURT:** Okay, what I'm going to do is I'm going
16 to take a short recess. I need to look at -- organize my
17 notes, look at my notes, and I need to go through the bond
18 reports again. So it shouldn't be more than -- than maybe 15,
19 20 minutes.

20 So we'll be in recess for about 20 minutes.

21 **MR. BENNETT:** Judge, can I -- I forgot to ask two
22 questions to Task Force Officer Emmerson. Can I ask those two
23 questions?

24 **THE COURT:** No, no. Everybody's already rested.

25 **MR. BENNETT:** All right, fair enough. Would you like

1 argument --

2 **THE COURT:** No, I usually don't. I usually normally
3 go with what I got, okay.

4 Thank you. We'll be in recess for 20 minutes.

5 **(Recess was taken from 4:17 to 4:40 p.m.)**

6 **THE COURT:** Okay, we're back on the record on the
7 detention hearings in this case. I'm ready to state my -- my
8 holdings and my findings into the record.

9 Mr. Elizondo, Mr. Aviles, Mr. Lopez, Mr. Worrell, I
10 always -- during the detention hearing, I always address you
11 personally because you have the most to lose or gain on
12 whatever ruling I make in this case. So I'll explain my
13 decisions in this case so that way you'll know how I stand and
14 the way this goes.

15 First of all, I want to tell you that you're very,
16 very lucky because you have a lot of family support here.
17 Whichever way I go, that means a lot to me. I tell people all
18 the time, I have people in this courtroom all the time that
19 don't have anybody -- anybody come in and willing to get up on
20 that witness stand and say that they'll take care of them.

21 And so that's huge. Okay, no matter which way I go,
22 that's huge. So you're very, very lucky and you need to thank
23 your lucky stars that you have someone in your life that's
24 willing -- willing to do that.

25 Now, so that everyone knows the way the law is, and

1 I'm sure your lawyers have visited with you, is that because of
2 the -- of the amount of drugs that's alleged in this case and
3 because of the indictment in this case, there's two things I
4 need to look at.

5 Whether or not you're a risk of flight and whether or
6 not you're a danger to the community. Those are the two issues
7 that I need to look at.

8 And so I have to find that you're not on both those
9 before I can release you. But because of the amount of drugs
10 that's alleged in this case, there's a presumption that you're
11 a risk of flight and there's a presumption that you're a danger
12 to the community.

13 And so that -- that's what we're here for today, to
14 see if you've been able to rebut that presumption, and that's
15 what your lawyers have been doing today with calling witnesses
16 and cross-examining the Government's witnesses.

17 And by the way, they've done an excellent job also.
18 You're lucky to have them on your case also.

19 I'll find, just for the record, that there is
20 probable cause that offense has been committed. I take into
21 consideration that there's been an indictment returned. I've
22 also listened to the testimony of the Task Force Officer, James
23 Emmerson. So for that matter, I do find probable cause.

24 Mr. Elizondo, I'll start out with you because you're
25 the first one that I have to -- first one on the case here.

1 I'll note for the record, and I do know that, in all
2 the cases, I hear amounts of drugs that's allegedly -- people
3 are responsible for. I know that that's an estimate, that we
4 don't know that. That's for a jury to decide at trial, or
5 whether or not you're even guilty or whether -- and if so, how
6 much drugs are presented.

7 But long story short, there was a wiretap on
8 Mr. Elizondo's phone. The agent testified that he was
9 responsible for approximately 19 kilos of cocaine.

10 And then subsequently, there was cocaine and a
11 pistol at a search warrant, subsequent, later on after the end
12 of the conspiracy at his home.

13 Regarding Mr. Elizondo's risk of flight, I find that
14 he's not a risk of flight. I've gone through the reports.
15 He's been a resident of Houston his whole life; he has family
16 ties to Houston; he's not report outside -- travel outside the
17 United States.

18 I'm going to find that he's rebutted the presumption
19 that he's a risk of flight. But that doesn't -- in all the
20 cases, that doesn't end the inquiry I have. I need to look at
21 whether or not he's a danger to the community.

22 Mr. Elizondo, that doesn't -- that doesn't mean that
23 you're going to go out and rob somebody or anything like that.
24 What I need to look at and what I do look at -- these lawyers
25 will tell you; they've been in front of me enough, is I look at

1 a person's track record of how many times they've been on
2 probation or parole or anything else; how many times a judge
3 has told them not to commit another offense.

4 And for whatever reason, sometimes people change.
5 They'll stop, but sometimes they just -- they don't, for
6 whatever reason. And so I have to look at that. In doing my
7 job, I have to look at that.

8 And so when I went back through your prior record
9 here, I saw that, at age 19, you got -- you got a DWI. I
10 didn't count that against you. But at age 22, in 2003, you got
11 a possession of a controlled substance. You pled guilty. You
12 were given probation, but for whatever reason, you were
13 revoked; you didn't successfully serve your probation and you
14 were revoked and you received 12 years in prison.

15 And then shortly after that, in 2004, was a
16 manufacturing and delivery of a controlled substance. You pled
17 guilty. You were sentenced and then you were paroled, and then
18 while you were out on parole, apparently, you picked up a
19 possession of a controlled substance and also a possession of
20 marijuana. You pled guilty on both those and you received some
21 confinement time.

22 So I have to find in looking at your criminal history
23 here, that you've been on -- you've been on probation and
24 you've been on parole and whatever, for whatever reason, that
25 hadn't been able to stop you from committing offenses.

1 So I'm going to find that you haven't rebutted the
2 presumption of being a danger to the community and order you to
3 be held until trial in this case.

4 Regarding Mr. Aviles. Again, I note that Mr. Aviles
5 was captured on the wiretap -- allegedly captured on the
6 wiretap. And there was also a search warrant on his residence
7 where two firearms were allegedly recovered, and he is
8 allegedly a convicted felon.

9 Again, I'm going to find Mr. Aviles did rebut the
10 presumption about being a risk of flight. It looks like he
11 lived in Channelview his whole life; he's expecting a child. I
12 don't find that there's a risk of flight.

13 But again, what I need to look at is his criminal
14 history to determine whether or not he's rebutted the
15 presumption about being a danger to the community.

16 And at looking at Mr. Aviles's, a lot of the
17 convictions here are old convictions, when you were like 13
18 years old. I didn't hold a lot of those against you because I
19 know that you were young.

20 But going back, it looks like you had several
21 convictions where you're put on probation for theft when you
22 were 13. You were sent to TYC for assault causing bodily
23 injury; you caught a burglary of a vehicle -- two burglaries of
24 a vehicle. You got sent to 180 days in jail in 2003.

25 But most notably, back in 2012, you received two

1 years' imprisonment for being a felon in possession of a
2 firearm. And then there's probable cause that this offense was
3 committed while you were on parole, and then, even more than
4 that, what's disturbing is the evidence of drugs and firearms
5 at your residence during the search warrant.

6 So again, unfortunately, your criminal history has
7 followed you. So I'll find that you haven't rebutted the
8 presumption that you're a danger to the community.

9 Ms. Lopez, I find -- I found also that you've been a
10 long-time resident of the Houston area, although you traveled
11 once out of the -- out of the States for apparently some
12 surgery.

13 I find that you rebutted a presumption that you're a
14 risk of flight. Again, I have to look at the danger to the
15 community.

16 What -- you were a closer call. And I struggled,
17 okay? I -- you got a -- you had a forgery of a financial
18 instrument, which is a felony; you received third years -- two
19 years adjudicated probation, and it was extended for another
20 year, but I didn't worry about that.

21 But either way, there was a -- that was a felony.
22 That was back in 2007. Again, there's probable cause that you
23 committed this offense. But what worried me more is that
24 apparently, I heard testimony that you were stocked with a
25 large amount of methamphetamine at a border crossing. And you

1 were detained here several years ago. And then, for whatever
2 reason, when the authorities ran search warrants on your
3 residence, there was 108 pounds of marijuana and also a firearm
4 found.

5 That should have scared you to death when you were --
6 when you were detained down on the border. And that should
7 have curtailed your alleged criminal behavior. But I find that
8 you haven't rebutted that presumption.

9 Regarding -- regarding Mr. Worrell. Again, I looked
10 back -- same situation. Mr. Worrell, one of the things I look
11 at is the weight of the evidence against the Defendant.

12 And what went in Mr. Worrell's favor was that I
13 didn't see the culpability there that I saw with the other
14 Defendants either being intercepted on a wire or having a
15 seizure -- things seized from him.

16 But, however, there was probable cause that -- set by
17 the -- by the indictment. So I had to go back and look at
18 Mr. Worrell's criminal history. I find that -- and again, I
19 find that he rebutted a presumption that he's not a risk of
20 flight. He's a long-time resident of the Houston area.

21 But again, I found that Mr. Worrell was convicted of
22 robbery -- robbery back in 1997, possession of a controlled
23 substance in '98; received probation for those two offenses.
24 Criminal mischief in 2000, terroristic threat, and failure to
25 identify as a fugitive from justice; received jail -- jail

1 time.

2 Aggravated assault with a deadly weapon, pled guilty;
3 received two years in prison.

4 And then in 2003, was charged in Federal Court in
5 Houston, Texas, placed on Pretrial Release, in a same issue
6 that we're here, and then failed to show up. A bench warrant
7 was issued, and was arrested for that.

8 After that -- after serving that term of
9 imprisonment, he picked up a possession of marijuana case in
10 2011. And also, unlawful possession of a firearm by felon in
11 2015.

12 Unfortunately, Mr. Worrell hasn't rebutted a
13 presumption of being a danger of the community.

14 With regard to these four cases, I remand the
15 Defendants to the custody of the Marshal Service and order that
16 they be held until trial in this case.

17 Thank you. We're in recess.

18 **THE MARSHAL:** Court is in recess.

19 **(This proceeding was adjourned at 4:51 p.m.)**
20
21
22
23
24
25

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

A handwritten signature in black ink, appearing to read "Toni Hudson", is written above a horizontal line.

Signed

June 7, 2018

Dated

TONI HUDSON, TRANSCRIBER